C.R.No.169/06

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

S.B. CIVIL REVISION PETITION NO.169/2006
Jagdish & Ors.
Vs.
Smt. Prasan Devi & Anr.

DATE OF ORDER :: 17/11/2006

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Praveen Jain, for petitioners

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Instant revision petition has been filed by the defendants-petitioners against the order dated 11th August, 2006 whereby the court fee deposited by the plaintiff on 16th January, 2006 was accepted by the learned trial Judge and the same was taken on record on a reasonable cost.

The respondent-plaintiff filed a suit for specific performance and along with the plaint also filed pauper application. Notices were issued pending application and adjudication thereof, the plaintiff moved an application to withdraw the Pauper Application filed initially on 8th November, 2005 which was accepted by the learned trial Judge and the plaintiff was directed to deposit the court fee within one month. Accordingly, on 8th December, 2005, when the matter came before the court, plaintiff sought further time for depositing the court fee which was allowed and the matter was posted on 22nd December, 2005. On the said date, the

Presiding Officer was on leave and case was posted for 16th January, 2006. On the said date, undisputedly the plaintiff deposited the court fee required for adjudication of the dispute raised in the plaint. Thereafter, the matter was posted on various dates where the petitioner raised objection that since the plaintiff has failed to deposit the court fee within a period of one month as observed by the court in its order dated 8th November, 2005 and when no application has been filed seeking condonation of delay and in the absence of depositing the court fee within time provided by the court, the suit became incompetent and cannot now be proceeded further against the defendant.

Learned trial Judge after taking note of objection and so also the previous proceedings, of which reference has been made by me in preceding para, considered to condone the delay in submitting the court fee on reasonable cost vide order impugned dated 11th August, 2006.

I do not find any error in the discretion exercised by the learned trial Judge for accepting the court fee deposited by the plaintiff and which otherwise has not caused any prejudice to the defendant-petitioner as well.

Consequently, I do not find any force in the revision petition, the same is, accordingly, dismissed.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.